

Appl. No. 10/722,805

Reply to Office Action of July 28, 2005

**REMARKS/ARGUMENTS**

Claims 1, 2 and 5 - 27 are presented for Examiner's consideration. Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1, 2, 5-9, 12-17, 19, and 22-26 stand rejected under 35 U.S.C. §102(e) as being anticipated by FitzSimons et al., U.S. patent 6,899,250. FitzSimons discloses a wet and dry towel dispenser having an elongated cylindrical container having an outer dry towel compartment that surrounds an inner wet towel compartment. The dry towels are dispensed from a slot in the sidewall of the elongated container, and the wet towels are dispensed from an opening having a cap located on the top of the container. FitzSimons is especially concerned with the portability of the wet and dry dispenser as noted in the Background Information section. FitzSimons states:

The existing wet and dry towel dispensers, however, do not provide the wet and dry towels in a convenient packages that can easily be packed or stored (e.g. in a diaper bag or in a drink holder of an automobile).

According, there is a need for a wet and dry towel dispenser in which the wet towels and the dry towels are arranged more efficiently in a more convenient container.

At column 4, line 43, FitzSimons states:

Although various sizes and dimensions are contemplated, the dispenser 10 is preferably sized to be portable and easily stored. For example, the diameter of the container 12 can have dimensions corresponding to a drink holder in an automobile.

Thus, the container of FitzSimons is clearly intended to be a portable, on-the-go dispenser. Something that is readily grabbed, which can then be placed into a gym bag, diaper bag, purse, or car cup holder. As such, the wet and dry towels in FitzSimons need to be totally enclosed and protected by the container to prevent being damaged and/or soiled when traveling around inside of a diaper bag or car cup holder.

In contrast, the Applicants' freestanding dispenser is intended for use in the home such as on a kitchen counter or a bathroom counter. As such, the dry roll should be readily accessible to be rapidly dispensed in the event of spills and not entirely enclosed by the container and dispensed through a tiny narrow slot as done in FitzSimons. Such a configuration can impede access to the dry roll; especially, if the dry roll tears while being quickly dispensed during a spill and needs to be rethreaded. The dry towel passage, 24 or 34, of FitzSimons exposes hardly any of the dry roll's exterior surface, making it difficult to locate the tail to rethread the dispenser or to rewind the dry roll if an excess amount has unwound as discussed at page 4, lines 18-21 of the Applicants' specification.

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Claim 1 has been amended to recite that approximately 10 percent to approximately 100 percent of the dry roll's exterior surface is exposed. Support for the amendment appears at page 4, lines 21-27 of the specification. Claim 5 has been amended to recite that approximately 25 percent to approximately 100 percent of the roll's exterior surface is exposed. The slot of FitzSimons does not expose the recited amount of the dry roll's exterior surface. As such, the pending anticipation rejection has been overcome by appropriate amendment.

With regard to the pending obvious rejections, the pending claims are not obvious since all of the claimed limitations are neither taught nor disclosed by FitzSimons, individually, or when combined with Bando, U.S. patent 6,206,221. In particular, the claimed ranges for the exposed portion of the dry roll's exterior surface are neither disclosed or suggested by the cited references. In fact, FitzSimons teaches away from exposing a large portion of the dry roll's exterior surface since that would defeat the intended purpose of the dispenser's portability and the ability to be placed into a diaper bag or a cup holder.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance. Additionally, since the pending rejection to claim 1 has been overcome, all of the withdrawn claims are also a condition for allowance as dependent on an allowable generic or linking claim. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. The undersigned may be reached at: (920) 721-7760.

Respectfully submitted,

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